

## Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 AID-05 CIAE-00 COME-00 EB-07 FRB-03

INR-07 NSAE-00 USIA-06 TRSE-00 XMB-02 OPIC-03 SP-02

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R 271848Z JUN 75

FM AMEMBASSY PARIS

TO SECSTATE WASHDC 0801

INFO USMISSION OECD PARIS

USMISSION EC BRUSSELS

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E.O. 11652: N/A

TAGS: EINV, XG, JA, AS, FR

SUBJECT: FOREIGN INVESTMENT STUDY ACT OF 1974

REF: A) PARIS 14981 (1974); B) PARIS 9042 (1974);  
C) PARIS 11699 (1974); D) PARIS A-67 (JAN. 31, 1974);  
E) PARIS A-683 (JUNE 25, 1971); F) PARIS A-381 (APRIL 8,  
1971; G) PARIS A-279 (MARCH 11, 1971); H) PARIS A-1494  
(DEC. 10, 1970); I) PARIS A-1115 (SEP. 4, 1970); J)  
PARIS A-1243 (FEB. 8, 1967); K) PARIS A-411 (APRIL 1,  
1969; L) PARIS A-675 (JUNE 20, 1969); M) PARIS  
A-1293 (DEC. 2, 1969); N) PARIS A-1162 (SEP. 18, 1970);  
O) PARIS A-233 (MAR. 1, 1971); P) PARIS A-451 (APR. 26,  
1971); Q) PARIS A-463 (AUG. 20, 1977); R) PARIS 2226  
(1975); S) PARIS 30173 (1974); T) PARIS 24440 (DEC. 20,  
1972; U) PARIS 18007 (SEP. 22, 1972); V) PARIS 21186  
(NOV. 6, 1972); W) PARIS 17537 (JULY 26, 1973); X)  
PARIS 18230 (1974); Y) PARIS 20527 (1974); Z) PARIS  
13128(1975

THE FOLLOWING INFORMATION IS KEYED TO LETTER SCALE

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RUNNING THROUGH PARAS 4-6 OF STATE 107242.

A. THE WELCOME GIVEN TO FOREIGN DIRECT INVESTMENT IN FRANCE HAS BEEN CONSPICUOUSLY WARMER SINCE 1970. GOVERNMENT REGIONAL DEVELOPMENT AGENCY (DATAR) HAS OFFICES IN MAJOR DEVELOPED COUNTRIES TO SOLICIT DIRECT INVESTMENT, ESPECIALLY IN FRANCE'S LESS FAVORED AREAS. BASIC GOAL OF THIS POLICY OF WELCOME IS TO PROMOTE INFLUX OF NEW CAPITAL FOR FRANCE'S ECONOMIC DEVELOPMENT. MAJOR CAVEAT, WHICH PROVIDES RATIONALE FOR SCREENING PROCEDURE, IS FRENCH "CONCERN" FOR "ECONOMIC" INDEPENDENCE, WHICH TRANSLATES INTO BARRIERS TO FOREIGN "CONTROL" IN MANY INDUSTRIAL BRANCHES. SPECIFICALLY, GOF IS PARTICULARLY RECEPTIVE TO DIRECT INVESTMENTS WHICH BRING NEW TECHNOLOGY OR FINANCING CAPACITY, CREATE NEW EXPORT POSSIBILITIES, OR CREATE JOBS, ESPECIALLY IN AREAS BENEFITTING FROM THE REGIONAL DEVELOPMENT PROGRAM (REFS U, V, W). ON THE OTHER HAND, FOREIGN DIRECT INVESTMENT IS RESTRICTED FROM NATIONALIZED BRANCHES, STRICTLY CONTROLLED IN OTHER AREAS CONSIDERED SENSITIVE -- SUCH AS DEFENSE EQUIPMENT AND PHARMACEUTICALS -- AND LIMITED ON AD HOC BASIS WHEN GOVERNMENT FEARS FOREIGN-CONTROLLED FIRMS MAY ACHIEVE A "DOMINANT" POSITION -- AS IN PAPER, ELECTRONICS AND FOOD PROCESSING. FOR MOST RECENT EMBASSY REPORTING ON FRENCH GOVERNMENT ATTITUDES TOWARDS FOREIGN INVESTMENT, SEE REFS A THROUGH D. SOMEWHAT EARLIER VIEWS OF A MAN NOW ONE OF PRESIDENT GISCARD'S CLOSE ECONOMIC ADVISERS, SEE REF E. OTHER EARLIER DISCUSSIONS OF GOVERNMENT POLICY, USEFUL FOR BACKGROUND, ARE INCLUDED IN REFS F TO I.

B. THE BASIC LEGISLATION AND REGULATIONS GOVERNING FOREIGN INVESTMENT IN FRANCE ARE THE LAW 66-1008 OF DECEMBER 12, 1966 AND THE IMPLEMENTING DECREE 67-78 AND MINISTERIAL DECISION (ARRETE) OF JANUARY 27, 1967. THIS FRAMEWORK, REQUIRING PRIOR DECLARATION AND MINISTERIAL APPROVAL FOR FOREIGN DIRECT INVESTMENTS, WAS PUT INTO PLACE TO PROVIDE A MEANS FOR CONTINUED CONTROL OF SUCH INVESTMENT IN THE ABSENCE OF EXCHANGE CONTROLS ABOLISHED AT THAT TIME. ITS LIMITED OFFICIAL USE

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PRINCIPAL PROVISIONS WERE SUMMARIZED IN REF J. AS A RESULT OF THE REIMPOSITION OF EXCHANGE CONTROLS (DECREE 68-102L OF NOVEMBER 24, 1968), MODIFICATIONS AND FURTHER CLARIFICATIONS BECAME NECESSARY. THESE WERE INCORPORATED IN DECREE 69-264 OF MARCH 21, 1969 AND DISCUSSED IN REFS K, L AND N. THE EXTENSION OF THE DEFINITION OF LOANS FROM PARENT COMPANIES OR OTHER SUBSIDIARIES TO INCLUDE GUARANTEES BY THE SAME ON ANY

LOANS CONTRACTED BY A FOREIGN-CONTROLLED ENTERPRISE WAS PROVIDED FOR IN A FINANCE MINISTRY CIRCULAR DATED OCTOBER 15, 1969 (PUBLISHED IN THE JOURNAL OFFICIEL OF OCTOBER 30). THIS WAS REPORTED REF M. A FURTHER MODIFICATION, WHICH EXEMPTED COMMON MARKET FIRMS FROM PRIOR APPROVAL FOR DIRECT INVESTMENTS (BUT PROVIDED AN

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EQUIVALENT FORM OF SCREENING THROUGH THE EXCHANGE CONTROL MECHANISMS/WAS PROVIDED FOR IN DECREE 71-144 OF FEBRUARY 22, 1971 (RECORDED JOURNAL OFFICIEL OF FEB. 23) AS REPORTED REF O AND DISCUSSED AT GREATER LENGTH IN REF P. FINALLY, MODIFICATIONS EXEMPTING CERTAIN INVESTMENTS OF LOW VALUE (1 OR 2 MILLION FRANCS) FROM CONTROLS WERE PROVIDED IN VARIOUS REGULATORY INSTRUMENTS PUBLISHED IN JOURNAL OFFICIEL OF AUGUST 17, 1974 AND REPORTED REF Q. TWO DOCUMENTS, CONTAINING REGULATORY TEXTS AND AN EXPLANATION BY THE FRENCH BANK FOR FOREIGN TRADE-ARE BEING POUCHED. THE BEST SUMMARY IN

ENGLISH OF THIS LEGISLATION, WITH THE EXCEPTION OF 1974 MEASURES' KNOWN TO EMBASSY IS IN DEPARTMENT OF COMMERCE OVERSEAS BUSINESS REPORTS (OBR 71-012) OF JUNE 1971. THE FOLLOWING ADDITIONS OR CORRECTIONS SHOULD BE MADE TO THIS TEXT.

1. TWO MONTHS RULE (BOTTOM 2 LINES OF SECOND COLUMN, P 5-OBR) HAS NO PRACTICAL EFFECT, AS AUTHORIZATION LIMITED OFFICIAL USE

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(I.E. A POSITIVE RULING) IS REQUIRED UNDER EXCHANGE CONTROL REGULATIONS. IN GENERAL PRACTICE, DECISIONS ARE MADE IN TWO MONTHS OR LESS, HOWEVER.

2. LOANS. FOLLOWING INFORMATION SHOULD REPLACE ALL BUT FIRST SENTENCE OF SECOND PARAGRAPH UNDER "SPECIAL CASES" (P. 6 OF OBR 71-012). LOANS BY PARENT COMPANIES OR THEIR AFFILIATES, FOREIGN OR DOMESTIC, TO FOREIGN-OWNED FRENCH COMPANIES, OR GUARANTEES TO BORROWINGS OF THE SAME EXTENDED BY PARENT COMPANIES OR OTHER AFFILIATES ARE CONSIDERED DIRECT INVESTMENT AND REQUIRE AUTHORIZATION. OTHER FOREIGN BORROWINGS ARE SUBJECT TO APPROVAL UNDER EXCHANGE CONTROL REGULATIONS, WITH A POSSIBILITY FOR EXEMPTION IF TOTAL OF OUTSTANDING FOREIGN LOANS CONTRACTED DOES NOT EXCEED 10 MILLION FRANCS AND CERTAIN OTHER CONDITIONS ARE MET. REGULATIONS FOR LOANS AND GUARANTEES ARE GIVEN IN GOVERNMENT CIRCULARS OF JANUARY 19 AND JULY 26 BEGINNING PP 19 AND 43 OF ATTACHED BOOKLET OF REGULATIONS, RESPECTIVELY).

GOVERNMENT CIRCULAR OF JULY 26, 1974 (P 27 OF BOOKLET) REVIEWS ALL PRESENTLY PERTINENT LEGISLATION, AS DOES BFCE DOCUMENT.

C. AS NOTED IN B, DIRECT INVESTMENT FROM EC COUNTRIES IS NOT SUBJECT TO CONTROL UNDER 1967 DECREE BUT IS IN FACT SCREENED UNDER SAME CONDITIONS THROUGH EXCHANGE CONTROL REGULATIONS REINSTITUTED IN 1968 (SEE REFS O AND P). SCREENING PROGRAMS ARE ADMINISTERED BY THE FRENCH TREASURY (PART OF FINANCE MINISTRY) EXCEPT FOR INVESTMENTS IN REAL-ESTATE COMPANIES WHICH ARE CONTROLLED BY BANK OF FRANCE, AND FOR INVESTMENTS IN OVERSEAS DEPARTMENTS AND TERRITORIES, WHICH ARE GOVERNED BY THE "CAISSE CENTRALE DE COOPERATION ECONOMIQUE," A SEPARATE ORGANIZATION DIRECTLY ATTACHED TO THE FINANCE MINISTRY.

D. ALL DIRECT INVESTMENTS ARE SUBJECT TO SAME SCREENING PROCESS. MOST NEW AMERICAN INVESTMENT PROPOSALS (OTHER

THAN EXTENSIONS) HAVE BEEN FOR TAKEOVERS. THE WELL-  
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KNOWN REFUSALS OF THE 1960'S (LIKE WESTINGHOUSE) FELL  
INTO THIS CATEGORY -- BUT SO DO THE MAJORITY INVESTMENTS  
WHICH GO FORWARD. IT WOULD SEEM CLEAR THAT SINCE CON-  
CERN WITH FOREIGN "CONTROL" OVER INDUSTRIAL BRANCHES IS  
A MAJOR MOTIVATION FOR THE SCREENING POLICY TAKEOVERS  
ARE FAR MORE SUSCEPTIBLE TO REFUSALS THAN WOULD BE NEW  
PLANTS OR EXTENSIONS.

E. WITH THE EXCEPTION OF ONE RATHER COMPLEX HOTEL  
INVESTMENT CASE STILL PENDING (REFS R AND S), EMBASSY  
KNOWS OF NO REFUSALS SINCE L971 (REF T).

F. SPECIAL INCENTIVES -- IN THE FORM OF GRANTS AND  
TAX ADVANTAGE ARE GIVEN INVESTMENTS IN CERTAIN  
GEOGRAPHIC AREAS, WHETHER BY FOREIGN OR DOMESTIC IN-  
VESTORS, PROVIDED THEY MEET JOB CREATION TESTS. THESE  
PROGRAMS HAVE HAD CONSIDERABLE SUCCESS IN ATTRACTING  
INVESTORS TO THESE AREAS, ALTHOUGH THERE IS NO  
EVIDENCE THEY HAVE BEEN THE BASIS OF DECISIONS OF  
FOREIGN COMPANIES TO INVEST IN FRANCE OR EUROPE AS  
SUCH. SEE REFS U, V AND ESPECIALLY W. A DETAILED  
REPORT ON FRANCE'S REGIONAL DEVELOPMENT PROGRAM IS BEING  
PREPARED AND WILL BE SENT BY AIRGRAM.

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G. YES, THEY DO. ADDITIONAL INVESTMENTS OF FOREIGN-OWNED FIRMS, IF FINANCED THROUGH TRANSFERS, LOANS OR GUARANTEES FROM PARENT COMPANIES OR OTHER SUBSIDIARIES WOULD REQUIRE GOVERNMENT APPROVAL, BUT SAME WOULD BE TRUE OF FLOWS OF FUNDS FROM SIMILAR NON-RESIDENT SOURCES TO DOMESTIC FIRMS.

H. APPLICATIONS FOR DIRECT INVESTMENT MUST BE ACCOMPANIED BY INFORMATION ON THE PROJECT, AS REQUESTED ON THE FORMS BEING POUCHED. WHILE USE OF FORMS NOT REQUIRED (A LETTER SUFFICES), INFORMATION MUST BE GIVEN. NOTIFICATION MUST BE GIVEN WITHIN 20 DAYS OF ANY FINANCIAL OPERATIONS (LOANS, ESTABLISHING OF BANK ACCOUNTS, INCORPORATION) CONNECTED WITH AN APPROVED INVESTMENT. EACH YEAR, FOREIGN CONTROLLED COMPANIES MUST SUBMIT A BALANCE SHEET AND PROFIT AND LOSS STATEMENT TO FINANCE MINISTRY. AS PER ARTICLE 456, FRENCH CUSTOMS CODE, ALL INFORMATION PROVIDED FINANCE MINISTRY IS KEPT CONFIDENTIAL.

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I. PRESIDENT GISCARD D'ESTAING HAS PUBLICLY STATED THAT FRANCE DID NOT WISH DIRECT INVESTMENTS BY OIL PRODUCERS ON MODEL OF KRUPP-IRAN DEAL (REF X PARA 5D). RATHER, PREFERRED MODEL WAS STATED TO BE INVESTMENTS IN SECURITIES OF FRENCH NATIONAL CREDIT INSTITUTIONS -- WHICH IN TURN COULD LEND OR EVEN TAKE PARTICIPATIONS IN FRENCH COMPANIES (REF Y). THIS POLICY HAS BEEN PUBLICLY STATED AS WELL. IN FACT, THERE HAVE BEEN PRACTICALLY NO OPEC DIRECT INVESTMENTS IN FRANCE TO DATE (REF Z, PARA 6. EXCEPTIONS HAVE BEEN IRANIAN PARTICIPATION IN FRENCH-LED CONSORTIUM FOR "EURODIF" NUCLEAR ENRICHMENT PLANT, NOW UNDER CONSTRUCTION, AND A JOINT FRENCH-QATARI VENTURE TO CONSTRUCT HYDRO-CRACKING PLANTS IN BOTH COUNTRIES. THESE INVESTMENTS AND OTHERS WHICH MAY FOLLOW WILL BE BASED ON INTER-

GOVERNMENTAL AGREEMENTS. EXISTING SCREENING PROCESS IS  
CONSIDERED SUFFICIENT TO KEEP OUT ANY UNDESIRABLE  
DIRECT INVESTMENTS.  
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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** LAW, DATA, FOREIGN INVESTMENTS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 27 JUN 1975  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** greeneet  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
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**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
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**Film Number:** D750224-0432  
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**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
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**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
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**Review Action:** RELEASED, APPROVED  
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